

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 19826
[Redacted],	)	
	)	DECISION
Petitioner.	)	
_____	)	

This case arises from a timely protest of a State Tax Commission staff decision to change the property tax reduction benefit for 2006. This matter was submitted for a decision based on the documents in the file. The State Tax Commission has reviewed the file and makes its decision.

[Redacted] (petitioner) filed a property tax reduction benefit application on April 17, 2006. Pursuant to Idaho Code § 63-707(5), the Tax Commission reviewed the application and compared it with the petitioner's income records. The petitioner's federal income tax return showed nontaxable pensions or annuities that had not been listed in the application.

The staff sent the petitioner a letter advising her that her income total for the purpose of the property tax reduction benefit was going to be increased to include the nontaxable portion of the pensions or annuities. The petitioner protested the intended action that would result in a change to her benefit. The petitioner's file was transferred to the Legal/Tax Policy Division for administrative review.

All property within the jurisdiction of this state is subject to property tax. A property tax reduction benefit is available to certain qualifying individuals throughout the state. The benefit is in the form of payment (either total or partial) of the applicant's property tax on the dwelling he/she owns and occupies. The payment is funded by state sales tax.

The amount of property tax reduction depends on income--the greater the income, the smaller the benefit. However, income is defined differently for the property tax reduction benefit program than it is described in the income tax code. Income for property tax reduction benefit purposes is defined in Idaho Code § 63-701(5):

(5) **"Income" means the sum of federal adjusted gross income** as defined in the Internal Revenue Code, as defined in section 63-3004, Idaho Code, and to the extent not already included in federal adjusted gross income:

(a) Alimony;

(b) Support money;

(c) Nontaxable strike benefits;

(d) **The nontaxable amount of any individual retirement account, pension or annuity,** (including railroad retirement benefits, all payments received under the federal social security act except the social security death benefit as specified in this subsection, state unemployment insurance laws, and veterans disability pensions and compensation, **excluding any return of principal paid by the recipient of an annuity** and excluding rollovers as provided in section 402 or 403 of the Internal Revenue Code);

(e) Nontaxable interest received from the federal government or any of its instrumentalities or a state government or any of its instrumentalities;

(f) Worker's compensation; and

(g) The gross amount of loss of earnings insurance.

It does not include gifts from nongovernmental sources or inheritances. To the extent not reimbursed, the cost of medical care as defined in section 213(d) of the Internal Revenue Code, incurred or paid by the claimant and, if married, the claimant's spouse, may be deducted from income. To the extent not reimbursed, personal funeral expenses, including prepaid funeral expenses and premiums on funeral insurance, of the claimant and claimant's spouse only, may be deducted from income up to an annual maximum of five thousand dollars (\$5,000) per claim. "Income" does not include veterans disability pensions received by a person described in subsection (1)(e) who is a claimant or a claimant's spouse if the disability pension is received pursuant to a service-connected disability of a degree of forty percent (40%) or more. "Income" does not include dependency and indemnity compensation or death benefits paid to a person described in subsection (1) of this section by the United States department of veterans affairs and arising from a service-connected

death or disability. "Income" does not include lump sum death benefits made by the social security administration pursuant to 42 U.S.C. section 402(i). Documentation of medical expenses may be required by the county assessor, board of equalization and state tax commission in such form as the county assessor, board of equalization or state tax commission shall determine. "Income" shall be that received in the calendar year immediately preceding the year in which a claim is filed. Where a claimant and/or the claimant's spouse does not file a federal tax return, the claimant's and/or the claimant's spouse's federal adjusted gross income, for purposes of this section, shall be an income equivalent to federal adjusted gross income had the claimant and/or the claimant's spouse filed a federal tax return, as determined by the county assessor. The county assessor, board of equalization or state tax commission may require documentation of income in such form as each shall determine, including, but not limited to: copies of federal or state tax returns and any attachments thereto; and income reporting forms such as the W2 and 1099. (Emphasis added.)

The calculation of income starts with federal adjusted gross income and, thereafter, makes certain additions and deductions. The nontaxable portion of annuities is specifically required to be included in income to determine the benefit amount a qualified applicant is to receive. The only exceptions are annuities that are “return of principal paid by the recipient of an annuity” or annuities that are determined to be qualified as “rollovers as provided in section 402 or 403 of the Internal Revenue Code.”

[Redacted] Each document showed the petitioner’s monthly payments for 2005 as well as the exclusion ratio for each payment. At the request of the petitioner, the Tax Appeals Specialist talked with the petitioner’s financial advisor for clarification.

The financial advisor explained the information contained in each annuity document. He clarified that the stated exclusion ratio was the percentage of each payment that was the return of the principal the petitioner paid when she contracted for each annuity. With the exclusion ratio and the total payment received, the State Tax Commission is able to calculate the portion of the nontaxable

annuities that was not a return of principal and is includable in the petitioner's income for the purpose of the property tax reduction benefit.

The petitioner's 2005 federal income tax return showed total annuities of \$33,317. Included in federal adjusted gross income and reported in the petitioner's application for the benefit was \$28,152. According to the documentation the petitioner provided, \$5,165 of total annuity payments the petitioner received in 2005 was nontaxable; however, only \$3,950 of the \$5,165 was a return of her principal. The amount of \$1,215 of the nontaxable portion of the annuities was not a return of her principle; it was her gain. The definition of income requires the petitioner to include the \$1,215 in her total income for the purpose of determining the amount of her property tax reduction benefit.

In her application, the petitioner listed federal adjusted gross income of \$26,538 and social security of \$1,729 less medical expense of \$7,034. When the nontaxable portion of the annuities (\$1,215) is added to the income, the petitioner's 2005 total net income for the purpose of the 2006 property tax reduction benefit is \$22,448. She qualifies to receive a 2006 property tax reduction benefit of an amount not to exceed \$520.

The State Tax Commission is aware there is some potential this decision could cause a hardship to the property tax reduction benefit applicant. The proper jurisdiction to handle such hardship situations falls with the county commissioners pursuant to Idaho Code § 63-711.

WHEREFORE, the decision of the State Tax Commission staff to change the property tax reduction benefit is hereby MODIFIED and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

An explanation of the petitioner's right to appeal this decision is included with this decision.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

IDAHO STATE TAX COMMISSION

---

COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 2007, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]  
[REDACTED]  
[REDACTED]

Receipt No.